

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN

In re: JERRY D. WILLIAMS

Case No. 09-25224-PP
(Chapter 7)

Debtor.

WILLIAM T. NEARY,
United States Trustee,

Plaintiff,

v.

Adversary No. 09-2475

SALEENA WILKERSON

Defendant.

PLAINTIFF'S PRETRIAL REPORT

NOW COMES the United States Trustee, by Amy J. Ginsberg, Attorney for the United States Trustee pursuant to the pretrial order dated April 6, 2010, and submits this pretrial report:

A. Statement of Uncontested Facts:

The Parties

1. The Plaintiff, William T. Neary, is the United States Trustee for the Eastern District of Wisconsin and maintains an office at 517 East Wisconsin Avenue, Suite 430, Milwaukee, WI 53202.

Amy J. Ginsberg
United States Trustee's Office
517 E. Wisconsin Avenue
Room 430
Milwaukee, WI 53202
414-297-4499/fax414-297-4478

2. The Defendant, Saleena Wilkerson operates A Z Business Solutions, LLC located at 6815 W.Capitol Drive, Suite 207, Milwaukee, WI 53216.

Background

1. The Defendant, Saleena Wilkerson, prepared the bankruptcy petition, schedules, statement of financial affairs, applications to either pay the filing fee in installments or the waiver of the filing fee and other documents for filing in the bankruptcy cases of James D. Williams, Case No. 09-25224, Stephanie Williams, Bankruptcy Case No. 09-25223 and Zella James, Bankruptcy Case No. 09-24220.
2. Ms. Wilkerson received a fee ranging from \$125 to \$185 for the preparation of each of the three above-listed cases.

B. Contested Facts:

1. Did Ms. Wilkerson violate 11 U.S.C. §110 when she prepared the bankruptcy documents filed by Mr. Williams, Ms. Williams and Ms. James.
 - a. Plaintiff's position: Ms. Wilkerson violated 11 U.S.C. §110 when she prepared bankruptcy documents for Mr. Williams, Ms. Williams and Ms. James. Ms. Wilkerson violated 11 U.S.C. §110 by advising the debtors: what information to include in their petition, schedules, statement of financial affairs, whether their debts would be discharged, by choosing their exemptions, and by explaining how to fill out each bankruptcy document among other actions.
 - b. Defendant's position: Ms. Wilkerson did not violate 11 U.S.C. §110 when she prepared the bankruptcy documents by for Mr. Williams, Ms.

Williams, and Ms. James.

2. Do Ms. Wilkerson's violations of 11 U.S.C. §110 amount to such conduct that she should be enjoined from acting as a bankruptcy petition preparer under 11 U.S.C. § 110(j)(2)(A).
 - a. Plaintiff's position: Ms. Wilkerson's conduct in these three cases demonstrate that she should be enjoined as a bankruptcy petition preparer under 11 U.S.C. § 110(j)(2)(A).
 - b. Defendant's position: Ms. Wilkerson does not believe that she should be enjoined as a bankruptcy petition preparer.

C. Witnesses:

1. Plaintiff:
 - a. Jerry D. Williams
 - b. Stephanie Williams;
 - c. Zella James;
 - d. Saleena Wilkerson;
 - e. Chapter 7 Trustee Attorney Helen Ludwig;
 - f. Any witnesses called by the Defendant; and
 - g. Any rebuttal witnesses.
2. Defendant's witnesses:

Saleena Wilkerson
3. Expert witnesses:

None

D. Damages:

None.

E. Statement of Relevant Law:

1. United States Bankruptcy Code Section 110 prohibits a bankruptcy petition preparer from engaging in certain activities including advising a debtor: whether to file a bankruptcy petition, §110(e)(2)(B) *et seq.*, whether the debtor's debts will be discharged in bankruptcy (§110(e)(2)(B)(ii)), how to characterize the nature of a debtor's interest in property or the debtor's debts (§110(e)(2)(B)(vi)) and advising the debtor about bankruptcy procedures and rights (§110(e)(2)(B)(vii)).

2. 11 U.S.C. § 110(i)(1) states if the court finds any act by a BPP to be fraudulent, unfair, or deceptive, the court shall order the BPP to pay the debtor:

(A) the debtor's actual damages;

(B) the greater of—

(i) \$2,000; or

(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

3. Under 11 U.S.C. § 110(j)(2)(A), in an action under paragraph (1), if the court finds that—

i) a bankruptcy petition preparer has—

(I) engaged in conduct in violation of this section or of any provision of this title;

(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

(ii) injunctive relief is appropriate to prevent the recurrence of such conduct, the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in subclause (I), (II), or (III) of clause (i) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, has not paid a penalty imposed under this section, or failed to disgorge all fees ordered by the court, the court may enjoin the person from acting as a bankruptcy petition preparer.

F. Good Faith Certification:

Counsel hereby certifies that she has made a good faith attempt to settle this matter. However, since the withdrawal of counsel, the undersigned has been unable to reach Ms. Wilkerson for settlement discussions.

G. Plaintiff's Trial Exhibit List:

Exhibit #1: Jerry Williams' petition, schedules and statement of financial affairs and application to pay the filing fee in installments, and Motion to Dismiss Case. Case No. 09-25224, Docket Entries #1, #5 and #9.

- Exhibit #2: Jerry Williams' Amended Schedules Docket Entry #28.
- Exhibit #3: Stephanie Williams' petition, schedules and statement of financial affairs and application to pay the filing fee in installments and Motion to Dismiss Case. Case No. 09-25223, Docket Entries #1, #3, and #9.
- Exhibit #4: Transcript of hearing dated July 20, 2009 Docket # 32.
- Exhibit #5: Transcript of Deposition of Saleena Wilkerson dated May 26, 2010.
- Exhibit #6: Zella James' petition, schedules and statement of financial affairs and application to waive the filing fee. Case 09-25220 -#1, #5 and #11.
- Exhibit #7: United States Trustee's Adversary Complaint to deny Zella James discharge, court minutes and order denying in discharge. Case No. 09-2205 Docket Entries #1, #4 and #6.
- Exhibit #8: Any and all Exhibits on the Defendants' List.
- Exhibit #9 Any and all rebuttal exhibits

Defendants' Exhibits: None provided at this time.

H. Statement of Jurisdiction:

1. Venue for this proceeding is in the United States Bankruptcy Court for the Eastern District of Wisconsin pursuant to 28 U.S.C. § 1409(a).
2. This Court has jurisdiction to hear and determine this complaint pursuant to 28 U.S.C. § 157(b)(2)(A). This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A).

/s/

Amy J. Ginsberg
Attorney for the United States Trustee

Date: August 5, 2010

Saleena Wilkerson
Defendant

Date

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN

In re: JERRY D. WILLIAMS,

Debtor.

Case No. 09-25224-PP

(Chapter 7)

WILLIAM T. NEARY
UNITED STATES TRUSTEE,

Plaintiff,

Case No. 09-2475

v.

JERRY D. WILLIAMS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2010, I electronically filed **PLAINTIFF'S PRETRIAL REPORT** with the Clerk of the Bankruptcy Court using the ECF system , which will send notification to the following:

Helen M. Ludwig

and further, that I mailed such document, via first-class U.S. mail, to the following party:

: Saleena Wilkerson
AZ Business Solutions, LLC
6815 W. Capitol Drive
Milwaukee, WI 53216

/s/

LINDA L. SALADIN
Paralegal Specialist
Office of the United States Trustee